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Agency: Committee on Executive Matters and Legal Affairs
Hearing Date/Time: Tuesday, March 7, 2017, 1:00 p.m.
Place: Honolulu Hale
Re: Testimony of the ACLU of Hawaii in Opposition to Bill 13, Relating to Sidewalks

Dear Chair Menor, Vice Chair Fukunaga and Members of the Committee:

The American Civil Liberties Union of Hawaii ("ACLU of Hawaii") writes in opposition to Bill 13.

The ACLU of Hawaii urges the Committee to consider spending additional funds on critical projects to address homelessness, rather than spending hundreds of thousands (or millions) of dollars each year to arrest, prosecute, and imprison homeless individuals. For example, the City ought to spend its limited resources to better fund organizations such as the Waikiki Health Center – organizations that are addressing some of the underlying causes of homelessness (housing, mental health, addiction, and so on). See Allison Schaefer, *Agency Exits City Strategy on Homeless Over Funding*, Feb. 19, 2003. The City could also turn to evidence-based programs such as the Law Enforcement Assisted Diversion ("LEAD") Program, which has proven successful in redirecting unsheltered individuals into services in Seattle. Surely, the City can find more cost-effective ways to address homelessness than incarcerating every homeless individual on a petty misdemeanor offense (as Bill 13 provides) at a cost in excess of \$4,100 per person per month.¹

The ACLU of Hawaii does not dispute that the general public has a right to use public spaces, including sidewalks. Bill 13, however, goes too far: there are effective ways to keep sidewalks clear short of putting all homeless individuals in prison for up to a month at a time.

Bill 13 does nothing to address Honolulu's homelessness problem; rather, it just shuffles people from place to place, moving homeless individuals farther from service providers and saddling the homeless with criminal records (making it more difficult to find employment and housing). Legislation like Bill 13 is precisely the reason why Honolulu was named one of the ten meanest cities in the United States in its treatment of the homeless by The National Law

¹ See Auditor, State of Hawaii, *Management Audit of the Department of Public Safety's Contracting for Prison Beds and Services*, Report No. 10-10 (Dec. 2010) p. 18 (showing a cost of \$139 per day to house a prisoner in-state in FY 2009).

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Center on Homelessness & Poverty and The National Coalition for the Homeless, the two preeminent national organizations on homeless policy. *Homes Not Handcuffs: The Criminalization of Homelessness in U.S. Cities*, available at http://www.nationalhomeless.org/publications/crimreport/CrimzReport_2009.pdf.

Bill 13 contributes to the growing body of laws that unlawfully criminalize the status of being homeless in Hawaii. In 2015, the ACLU of Hawaii filed a complaint with the U.S. Department of Justice requesting the Department to commence an investigation into the City in response to the City's policies and practices that deprive homeless individuals of their right to due process in violation of the Fourth, Eighth, and Fourteenth Amendments to the United States Constitution, as well as our obligations under international human rights treaties. Expanding these problematic practices will waste taxpayer money — money that could otherwise be spent on community programs and services — and may subject the City to future legal consequences.

For these reasons and more, the ACLU of Hawaii respectfully requests that the Committee defer this measure. Thank you for this opportunity to testify.

Sincerely,

Mandy Finlay
Advocacy Coordinator
ACLU of Hawaii

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for 50 years.

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